

A HERITAGE FOUNDATION PANEL DISCUSSION

**THE "FAIRNESS DOCTRINE":
PULLING THE PLUG ON TALK RADIO**

Panel Moderator

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President, National Association of Radio Talk Show Hosts
WGSM Radio, Melville, N.Y.

Blanquita Walsh Cullum

WLEE Radio, Richmond, VA.

Bob Madigan

WWRC Radio, Washington, D.C.

Armstrong Williams

WOL Radio, Washington, D.C.

Brian Wilson

WWRC Radio, Washington, D.C.

The Lehrman Auditorium

The Heritage Foundation

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INTRODUCTION

While Talk Radio is a nuisance to many politicians, and an apparent embarrassment to the overwhelmingly liberal media establishment, millions of ordinary Americans see Talk Radio as a contemporary Town Hall—a place to make their views known on the important issues of the day.

But since these grassroots views frequently differ from those of official Washington, some Members of Congress and the Clinton Administration are working to re-institute the so-called Fairness Doctrine—requiring radio hosts and other broadcasters to provide airtime for viewpoints opposed to those expressed on the air. However, what Congress and the FCC define as “fair” would be determined almost entirely by congressional and bureaucratic edict. As a result, speech would be stifled, and a litigation nightmare would ensue, say broadcasters.

As the debate intensified over what constitutes “fairness,” The Heritage Foundation convened a panel of radio talk show hosts to discuss the “Fairness Doctrine.” The purpose was to provide a broadcaster’s perspective on the legislation, which, at this writing, continues to wind its way through Congress. Ultimately, if passed, President Clinton has said that he will sign the bill into law.

The consensus that emerged from the panelists was that the doctrine would have a chilling effect on freedom of speech—quite the opposite consequence from what was allegedly intended.

Participating in the Heritage Foundation’s panel discussion, in alphabetical order, were:

Blanquita Walsh Cullum, Talk Show Host, WLEE Radio, Richmond, Virginia, and a nineteen-year veteran of radio and television;

Paul Lyle, President of the National Association of Radio Talk Show Hosts, Boston, Massachusetts, and Talk Show Host, WGSM Radio, Melville, New York;

Bob Madigan, Talk Show Host, “Brian and Bob,” WWRC Radio, Washington, D.C., and a twelve-year veteran of NBC News and the NBC Radio Network;

Armstrong Williams, Talk Show Host, WOL Radio, Washington, D.C., and Chief Executive Officer of the Graham Williams Group, an international public relations firm based in Washington, D.C.; and

Brian Wilson, Talk Show Host, “Brian and Bob,” WWRC Radio, Washington, D.C., and a 28-year veteran of radio and television in markets including Houston, Atlanta, Baltimore, and New York.

PAUL LYLE: Jeff Dickerson asked me to lead with some observations about the National Association of Radio Talk Show Hosts (NARTSH). We are really an international association representing talk show hosts in a dozen countries around the world. Membership includes about three hundred active talk show hosts in the United States, as well as several hundred other associate members that represent organizations, companies, and groups that wish to promote causes, products, or their personnel through the talk radio community.

Talk radio is nothing short of a phenomenon in this country. It has been a much needed outlet for the voice of the American public.

It has grown substantially within the past decade. And one of the issues currently facing our members, and in some cases, many believe, threatening our membership, is the re-imposition of the Fairness in Broadcasting Doctrine which was, for more than forty years, part of the basic FCC broadcasting guidelines.

The licenses for electronic media—both radio and television—in this country do not belong to the broadcasters. They are merely on a lease program from the federal government. They belong to you, the American public. Are those leases being properly executed by those who temporarily hold them? Some say yes, but there are some in Congress who think not. That is why they have re-introduced the Fairness in Broadcasting Doctrine.

Why the re-introduction? Well, the statute was dropped after it was found to be unconstitutional during the Reagan Administration in 1987. Since then there have been three attempts to re-institute it, two of which were successful in passing the Senate, but none of which made it through for signature by the President.

The legislation—the Fairness in Broadcasting Doctrine Act—is currently in both the House and the Senate. It was passed in the Senate as part of S.3, which was the tax and budget proposal of the Clinton Administration. It is currently up for consideration in the House of Representatives.

As an association, the NARTSH has determined that while we are an apolitical trade association, we are not stating on the record editorially whether we are in favor or not in favor of the Fairness in Broadcasting Doctrine. We are leaving that up to our individual membership.

However, I can tell you that the overwhelming majority of the membership of our board and those from our membership that have contacted me are opposed to the passage and the re-introduction of this legislation as part of the FCC Act.

As an association, the board of directors has adopted a resolution that we are encouraging all of our membership to support. For the record, it reads:

Whereas, a wide diversity of both political and social issues and opinions are the life-blood of our profession; and

Whereas, the freedom to express one's thought is a fundamental human right, as embodied in the First Amendment to the Constitution of the United States; and

Whereas, there are some who would use the power of government regulation to their own ends, ends which may include the suppression of thought and ideas with which they disagree, the Board of Directors of the National Association of Radio Talk Show Hosts, therefore resolves to state our concern with the "Fairness in Broadcasting Act of 1993."

Furthermore, we encourage our president and officers to testify before Congress and appear in other forums on our behalf. We also urge our membership and the American public to participate in this debate regardless of their position.

We further and finally resolve to remind broadcasters, hosts, producers, management and owners of their special and unique responsibility as guardians of the First Amendment to present balanced programming, and to seek out those ideas, thoughts and issues that may not now enjoy adequate airing.

This resolution was adopted October third by the board of the National Association of Radio Talk Show Hosts meeting in Houston.

BRIAN WILSON: I would like to offer two quotes that I think encapsulate the essence of the argument here. One: "Talk radio scares the hell out of me." That belongs to Rep. Bill Hefner, as quoted by *The Wall Street Journal*, and essentially supported by Rep. John Dingell and Sen. Ernest Hollings.

The second quote in reference to the Fairness in Broadcast Doctrine—or whatever term we are going to use to describe this thing—goes like this:

"Idealistic and subjective, an unattainable utopian fantasy to be employed as a bludgeon, advocated by certain miscreants whose own agendas are morally, legally, or philosophically odious and indefensible. The latest addition to the ever-growing list of governmental oxymorons."

I said that.

ARMSTRONG WILLIAMS: As we discuss the threat of re-instituting the Fairness Doctrine, perhaps it is wise to look at the issue from its broadest perspective.

At the time of America's founding, Thomas Jefferson said the fate of the nation would depend upon the emergence of an educated and informed citizenry. Ever since, politicians have been praying—I mean literally praying—that this would never, never happen.

Today, we have millions of people in our country who somehow have the time, while earning a living and doing their housework, to keep up with national affairs in exacting detail. These are the people who also turn out for town meetings, and at every opportunity ask questions that are a congressman's nightmare. These are tough, sharp, probing questions that reflect an understanding of what the lawmaker is doing right up to the minute.

Lawmakers have never liked this. Shakespeare's Julius Caesar, for example, says, "Let me have about me... sleek-headed men.... Yond Cassius has a lean and hungry look. He thinks too much, such men are dangerous."

What such politicians mean of course is that their hold on power is threatened when the people think too much.

In 1987, the Fairness Doctrine was repealed. It is no mere coincidence that since then the radio airwaves and the television cable channels have proliferated with talk shows. Through this free and unfettered exchange of information, millions of Americans have achieved a level of political sophistication the country hasn't known before.

Is it any wonder that some Members of Congress want to turn back the clock to the mild, bland days of yore? Is it any wonder that they want to bring back the Fairness Doctrine, and apply a massive dose of ether to the public nostrils?

What politicians wouldn't have given for a Fairness Doctrine for newspapers during Mark Twain's day, when he called Congress "the only true criminal class in America."

Twain couldn't be stifled because of the First Amendment. Its guarantee of free speech was made part of the Constitution not to protect one citizen from another, but to protect all citizens from the government.

That is why the Fairness Doctrine always was a fraud, and could be nothing but fraudulent if reinstated. In the face of the First Amendment, no case can be made for giving government the power to regulate speech under any circumstance.

If the chickens at a chicken coop were to enact a law to protect them from the fox, would they turn around and appoint the fox as a sheriff?

In recent decades, protecting individuals from injustices committed by other individuals has been a major concern. Historically, however, government has been the major culprit when the rights of the people have been abridged or denied. This has always been true. As long as dictatorship exists, it will remain true.

If Congress is annoyed at talk radio or talk shows or television, the people should rejoice that their voices are finally being heard.

If serving in Congress is less comfortable, and if there is increased accountability, there is cause for rejoicing.

The Fairness Doctrine was nothing more than a device by which government imposed political censorship under the guise of protecting free speech. Consider who wants to revise it, and for what reason, and it's evident that this ploy is hostile to the public's interest.

The sole purpose of this threat to free expression is to do battle with Jefferson's dream of an educated and informed citizenry. To congressional foes of talk radio, the problem is not just one of too much Rush Limbaugh, but of too much democracy.

BLANQUITA WALSH CULLUM: While people are talking about the possibility of the re-enactment of the Fairness Doctrine, I will tell you that it is already raising its ugly head. Let me share an experience that happened to me recently.

My radio show is issues-oriented, and includes interviews with many politicians, and candidates, from across the political spectrum. Though conservative, I try in earnest to make my program fair, always making sure that all sides are represented. I believe that listeners are intelligent enough to make their own decisions.

On August 15, I asked Virginia Lieutenant Governor Don Beyer—a Democrat who's seeking re-election this fall—to appear as a guest on my show. During the program I asked him about "Outcomes - Based Education"—a controversial issue in Virginia. Beyer's response? "Well, I have an opinion on many things, but on this issue I'm not going to make a decision until after the debate," he said.

Mike Farris, the Republican candidate for Lieutenant Governor, was scheduled to be on my show the next day. In an effort to be more than fair, I called Beyer's staff and asked whether their candidate would like to come back and be on the program. I was told, "Absolutely not."

And when I said that I was going to be playing Beyer's response to the question about his position on Outcomes-Based Education, the staff member became furious. "You can't do that. We didn't give you permission," she said.

I'm sorry, but this is the public domain. Before Beyer's staff would agree to another discussion, I would have to promise to destroy the tape of Beyer's comments on Outcomes-Based Education. And the staff wanted me to vow to destroy the tape of the next scheduled program with Beyer.

I will not be a hostage to any politician. I will promise—even in writing, if necessary—to provide equal time, but there is a point where you cannot be held hostage.

The secret to talk radio is that it is so different and frightening to some politicians because talk radio is not controllable. Not only do you bring the people that you interview to listeners' homes, but they have an opportunity to challenge your opinion, to be able to call and reach out. This is truth at its finest.

Oftentimes, people do not know where to turn after reading in the papers that *Time* magazine has staged photographs, and that NBC News has simulated truck explosions. Talk radio says to us, "Wait a minute, we're going to give you equal opportunity to hear the truth."

But the opposition already is rearing its ugly head. But like many of my colleagues, I will continue to follow a story to bring the truth to the public, and that is what all of us in this business must do.

BOB MADIGAN: I happen to agree with all three of my colleagues on a number of things, but there was one thing that Paul mentioned at the beginning, and that is that the airwaves are not owned by the licensee, they are owned by the public. And that is one of the big arguments that many people give who are in support of the Fairness Doctrine—that indeed there is only a finite number of frequencies; consequently they have to be licensed. And once the government is licensing, then indeed what we have to do is to control content. That is the bottom line of the argument.

As a matter of fact, in both versions of the Fairness Doctrine legislation—the Senate and the House version—there is a line that says there are still substantially more people who want to broadcast than there are frequencies to allocate. That is a wonderful, wonderful line. This is true, but anybody can get a license. Most certainly, anybody can.

This country was built on free enterprise, and anybody willing to work hard enough to earn enough money, and pull together enough loans, can buy a radio station or a television station. The argument that it has to be available is a very weak argument, because with enough money, it becomes available.

Greater Media, Incorporated, which owns WWRC Radio in Washington, would be very happy to sell any of the radio stations if somebody came up with enough money. They happen to like the idea that they are on the air in Long Island, New Jersey, and Washington, but they are in business. So consequently, the argument that there are substantially more people who want to broadcast than there are frequencies to allocate is not a real good enough one.

So, people say, "Well, you know, why not find a way to convince license agencies that indeed they ought to toe the line," which is what the Fairness Doctrine is all about. And they say, "What is wrong with it? Why not hang it out there. It is not going to affect broadcasters. The FCC never used it to revoke a license. So what is the problem?"

It does have a chilling effect on content. For example, here's something that happened to me when the Fairness Doctrine was in effect. I was News Director of a 50,000-watt radio station in Southern California. We had a disk jockey on the air who was a rather witty kind of guy. San Diego

was a rather conservative town, and he just happened to be conservative. He was getting great numbers. Most of his material happened to be, because this was 1976-77, anti-Carter. After January 30, 1977, the station general manager and I had to start dealing with some complaints about that particular disk jockey's political statements on the air—his jokes.

I asked the general manager, why don't we just offer time in the middle of the night for some sort of alternative show—we could do editorials, we could do all kinds of things. He said, "No, it's too much trouble. The last thing I want to do is have you spend time, or have to hire somebody to devote time to ferret this thing out, and I am certainly not going to spend another dime on legal bills for this." Consequently, the disk jockey was told, "Do whatever you want, but no more political jokes."

We were never contacted by the FCC, and we were never actually sued. But because the Fairness Doctrine was there, because the public file was fully accessible, and because we were a 50,000-watt radio station whose license was up for renewal, the decision of the general manager and the decision of the corporation which owned the radio station for us was, "It's easier just to be quiet." The Fairness Doctrine does have a chilling effect, and there is no need for it.

So, if anyone's really upset by something that a radio station either wants to say or does say, there are plenty of other outlets for alternative views. And then when you look at the ratings, a radio station such as WWRC or any other radio station in town may only have two or three percent of the audience. So who is going to decide whether the two percent or the three percent of the audience that we attract needs to know about what the other 97 percent available audience wants to talk about. If supporters of the Fairness Doctrine really were interested in what we were talking about, or wanted to get involved, they could. They don't. They choose not to. Why should we give up our air time?



LYLE: Allow me to act here as the devil's advocate in the interest of fairness for all of us. I heard terms like "public file" from Bob. I heard that perhaps one of the individuals involved in management or ownership of a particular radio station was weak-livered and caved in to a couple of phone calls from a community group, and that has happened more than once. Although, there are some stations, including one of our own at Greater Media, that proudly carry the Howard Stern Show in one of its markets.

Also, I heard the term "editorial," which would lead me to believe that there was at least some thought of the equal time provision, which we currently do not have to participate in, and which is not part of either piece of legislation. There is no attempt to bring back the equal time provision, although that may be inherently part of the perceived threat. And I think many people in the talk radio business consider the passage of this legislation as some sort of threat that will immediately stifle the Rush Limbaugh Show types, or as Rush has ordained it, the "Flush Rush Bill." There are others who think the legislation is directed specifically at them and what they are doing in their communities.

Well, perhaps not. There has been a marked change in talk radio, and in talk television, since the disappearance of the Fairness in Broadcasting provision back in 1987. And it may or may not be directly related to one another. I think a good deal of it has to do with the satellite technologies that are available to us, and they happen to be coincidental. And that is the emphasis on syndicated and national programming, which deals—and rightly so—extremely well with national issues, and is extremely good at attracting high-profile guests. However, it de-emphasizes the ability of a local station, or the need for a local station—and we all are community-based and licensed to a specific community, in my case it is Huntington, Long Island, New York area—to concentrate on the needs and issues of the local community.

When I first started in this business I worked under the Fairness Doctrine. I do not do anything any differently today than I did then. I'm just in a different venue. I expound the same opinions, which are agreed with, or disagreed with, by about the same number of people. I still take the strong stances I did when I started out in this business, perhaps I might have changed my own opinion, but that is only because you tend to get a bit more conservative with age, or when we get mugged by liberalism. But the Fairness in Broadcasting Act was never a threat to my particular job; and I don't consider it one today. Now, I don't want to see it passed, but personally I do not like to see any form of constitutional restriction or legislation that might be conceived or used by some—and could be used by some—as a weapon against a particular broadcaster.

What I do see across this country is a tendency to rely upon national programming, and a dis-involvement in the local community, and the needs of the local communities. Perhaps there are some who would like to see the Fairness in Broadcasting Act used as a resurrection, perhaps, of some good local radio that met the needs of the local community. Yes, there are many stations across the country meeting the needs of their local community, but it is unquestionably more expensive.

CULLUM: We have to protect all of the talk radio hosts regardless of their style. For example, many of us may not appreciate the way that Howard Stern conducts his broadcast, but for some he is an entertainer, he is a performer. Some people may or may not agree with what Rush Limbaugh says, but we have to protect all broadcasters.

People also are thinking of this as in content of individual programs. However, each station will be obligated to have a good mix—for example, a mix of Howard Stern and Rush Limbaugh, a Pat Buchanan or somebody else. You see, it will affect individual stations as opposed to individual programs on those stations.

MADIGAN: Perhaps there are some who wish to do that. But what about the fact that some of us are not living up to our community responsibilities? Remember the days of when we sat down with community groups and we used to find the ten most important issues to the people of the given community? And we used to try to present those, and time for editorial retort?

WILSON: They were the ten most important issues to the individuals who showed up. I found that it was most instructive and it gave me a great deal of leads, and I actually ended up with a whole lot of invitations to cocktail parties. It certainly had its social merits. But you talk about the technology being one of the reasons maybe for the increase in syndicated talk shows. It has more to do with economics. Broadcasting is a business. Ultimately, the responsibility, according to the license, is to the local community. But truly the ultimate responsibility is to the bottom line—broadcasting is a business, and it is profitable. If it is not profitable, then companies will shed themselves of that radio station. Of course, it's usually: first the host, then the station.

WILLIAMS: I maintain that you can still meet the bottom line with quality. I think people are a little tired of the performances—the yelling and shouting. I think people are turning away from the television shows like Geraldo, because they cater to sex and violence, and people realize the impact that it's having on our community.

People want to turn to something that is not only wholesome for them, but wholesome for their children. I do not do radio to entertain. I am not a performer, and I take offense when someone labels a talk show host as a performer, because I am not a performer. What I do is very real and very sincere. I am trying to impart some values to the community. And I don't think that local problems are any different than the national problems—teenage sex, people having abortions, murders in the community. I think you can take care of local concerns, as well as the national concerns, because I think they are the one and the same.

People like Howard Stern and other broadcasters have a responsibility to be professional and set an example because there are kids and others who listen to their shows.

WILSON: With respect to programming, I would suggest that as my esteemed partner brought out, this is a business. There are folks in different time segments on the airwaves, such as Mr. Williams, who have the time and the ability to probe those subjects that are maybe more important to those who listen at home.

There is certainly no argument that sex, teenage pregnancies, and drugs are of local importance. They also are of national importance. There is no community in our country that is immune to teenage pregnancy, violence in the streets, and so on.

But without talking too much “shop,” I would suggest that it depends a lot on what your time segment may be. On our show, I am a performer. I would like to think that my both left and right side of my brain communicate, I have an I.Q. higher than my shoe size, and an interesting educational background.

We try to weave on our morning show enough outrage, enough sex and titillation, as well as hardcore subjects, to stir up as much dust as possible. My obligation, as I have seen even prior to teaming up with the credible Mr. Madigan, is to come into a market more as a hired gun than anything else. That is my job. My job is to come in and kill the competition. No offense. That is what I am hired to do. That is what I am paid to do. I have to analyze the market place. I have to analyze my competition and find out what they are doing, and then try and drive a wedge between their audience and their station, and force them over to me.

Based on what is going on in this market in morning radio, I generally have to use the analogy of driving the radio station down the road. On this side of the road we have a ditch. In that ditch is WMAL. Harden and the late Mr. Weaver were performing in that ditch for a pretty good while. They got a pretty terrific audience and they never changed. One of the great sins of our business is to not change. However, the upside is that they own everyone over the age of 65.

On this side of the road, and I mean it in the most practical of terms, is Howard Stern. I think Howard is quite an entertainer. We shared the same agent in New York at one time. And so I think to his detriment, ultimately, is the fact that he is a one joke guy. There are just so many penises and breasts and lesbians and so on that you can hear in any one given broadcast before folks whose knuckles don't drag the ground get a little tired.

Our responsibility, as I see it, at least as “Mornings with Brian and Bob” is that we have to appeal to a segment of the audience that is north of Howard Stern, in both age, intelligence, taste, and so on, and south of Harden and Weaver—Harden and Weaver in the age and sensitivity area—which I think we do reasonably well.

As I think all of my colleagues here will agree, the morning slot has the responsibility to garner the largest possible audience to hand off to the guy that starts at 9 or 10 a.m. He hands off to the guy who starts at noon or 1 p.m., and so on and so on. More radios are turned on in the morning than at any other time during the day. So you put your big guns on in the morning. You get as many people in there as possible. You appeal to as many people as possible, and hand off to the next guy.

How do you do that? In this market, as in most other markets, you don't do it with news, sports, traffic and weather. Everybody does news, sports, traffic, and weather; but as we say, you ignore them. Any more so than you ignore the substantive issues of the day. We have dealt with Somalia, Bosnia, the Clinton Administration, health care reform, the Clinton Administration, Bosnia, the Clinton Administration, health care reform, Bosnia, and of course, the Clinton Administration. The point is: If you can get a couple of people together in the room whose brains mesh, as ours do—from time to time—we then should be able to present a mosaic of both entertainment, information,

and reasonably adult intelligent dialogue with ourselves, and with our listeners, and with our callers to build up this massive audience. So far, I am here to tell you, this has been an abject failure. But at least the idea is in place.

Now, what happens after that? Then you start breaking down the rest of the things that have been under discussion here. Can a talk show host have a positive, moral effect on the listening audience? I think they can. Can they do it on a national basis? Maybe. Is it an absolute? I don't know. Maybe we haven't been at it long enough. Maybe Mr. Williams should have himself a national talk show to see whether or not his morality is communicable to the rest of the nation. Maybe Mr. Lyle should have a national talk show and make a similar experiment from his spectrum, and so on. These are all things that could be under consideration.

The thing is that we still get back to something that I think we all agree on, and that basically is that these guys in Congress are essentially scared of what is going on. They don't want to be held under the gun, they don't want to be held under the microscope, and they are using this to beat us into submission. However, bear in mind the entertainment factor as it goes into the talk radio. Blend that in with what Armstrong Williams does, and I think we have a pretty potent medium to be able to accomplish great good, if they just leave us the hell alone.